

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In the Matter of the Application of)
) Civil Action No. 1:07-cv-07977-RJS
HARTFORD FIRE INSURANCE COMPANY,)
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Petitioner,)
)
)
)
-against-)
)
THE EVERGREEN ORGANIZATION, INC.)
CHARLES A. CARONIA, GARY UPHOUSE,)
CHARLES CARONIA, JR., and ANDREJS)
KRUTAINIS,)
)
Respondents.)
)
)
)
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**DECLARATION OF JAMES E. FITZGERALD IN SUPPORT OF HARTFORD FIRE
INSURANCE COMPANY'S OPPOSITION TO RESPONDENTS' CROSS-PETITION
FOR JUDGMENT CONFIRMING ARBITRATION AWARD**

I, James E. Fitzgerald, declare as follows:

1. I am an attorney duly admitted to practice before the courts of this State and before this Court. I am a member of the firm of Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038, attorneys for Petitioner, Hartford Fire Insurance Company ("Hartford"). If called as a witness in this case, I could and would competently testify to the

following facts, all of which are within my personal, first-hand knowledge. I make this declaration in support of Hartford's Opposition To Respondents' Cross-Petition For Judgment Confirming Arbitration Award.

2. Attached as Exhibit "A" to this Declaration is a true and correct copy of Hartford's Opening Arbitration Brief submitted in the arbitration between Hartford and Respondents The Evergreen Organization, Inc. ("Evergreen"), Charles A. Caronia, Sr. ("Cariania"), Gary Uphouse ("Uphouse"), Charles Caronia, Jr., and Andrejs Krutainis, for which an arbitration hearing was held from January 8, 2007, through January 12, 2007, in New York, New York.

3. Attached as Exhibit "B" is a true and correct copy of Gary Uphouse's Declaration In Support Of Motion To Dismiss Hartford's Petition To Compel Arbitration And/Or Vacate This Court's September 7, 2005 Order, which was filed in this Court on or about December 9, 2005, in the case of *Hartford Fire Insurance Company v. The Evergreen Organization, Inc., et al.*, Case No. 04-CV-333 (LAK).

4. Attached as Exhibit "C" is a true and correct copy of the Declaration Of Gary Uphouse In Opposition To Preliminary Injunction And Attachment Order In Aid Of Arbitration, which was filed in this Court on or about March 14, 2004, in the case of *Hartford Fire Insurance Company v. The Evergreen Organization, Inc., et al.*, Case No. 04-CV-333 (LAK).

I declare under penalty of perjury and under the laws of the United States of America and the State of New York that the foregoing is true and correct.

Executed this 31st day of October, 2007 at Los Angeles, California.

/s/ James E. Fitzgerald

James E. Fitzgerald